

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

**FILED**  
CHARLOTTE, NC

AUG 31 2015

U.S. DISTRICT COURT  
WESTERN DISTRICT OF NC

**UNITED STATES OF AMERICA, *ex rel.*  
MICHAEL PAYNE, MELISSA CHURCH  
and GLORIA PRYOR, *et al*,**

**Plaintiffs,**

**v.**

**UNDER SEAL**

**ADVENTIST HEALTH SYSTEM-  
SUNBELT, INC., *et al*,**

**CIVIL FILE NO. 3:12CV856**

**Defendants.**

**JOINT NOTICE OF ELECTION TO INTERVENE  
IN PART AND DECLINE IN PART**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4) ), and respective state false claims acts (Fla. Stat. § 68.081 et seq., N.C. Gen. Stat. § 1-605 et seq., Tenn. Code Ann. § 71-5-181 et seq., and Tex. Hum. Res. Code Ann. § 36.001 et seq.), the United States and the States of Florida, North Carolina, Tennessee and Texas (the “Intervening States” and together with the United States, the “Intervening Parties”) hereby notify the Court of their election to intervene in part for settlement purposes against Adventist Health System Sunbelt, Inc. and the other defendants named in this action as to allegations that compensation arrangements with employed physicians, as well as a space lease with an immediate family member of an employed physician, violated the Physician Self-Referral Law by failing to comply with the regulatory safe harbor because: 1) the compensation

arrangements took into account the volume and value of referrals of the physicians, or 2) the compensation exceeded fair market value. The United States intervenes also in allegations that certain defendants miscoded claims resulting in false claims to Medicare. Except as specified above, the Intervening Parties decline to intervene on all other claims. The parties anticipate signing Settlement Agreements within three weeks that will provide for payments within ten days, and the dismissal of this action thereafter, pursuant to the terms and conditions of the contemplated agreement.

Although the Intervening Parties decline to intervene in a portion of this action, they respectfully refer the Court to 31 U.S.C. § 3730(b)(1), Fla. Stat. § 68.084(3), N.C. Gen. Stat. § 1-609(f), Tenn. Code Ann. § 71-5-183(c)(3), and Tex. Hum. Res. Code Ann. § 36.104(b), which allow a relator to maintain the declined portion of the action in the name of the United States or the State; providing, however, that the action may be dismissed only if the court and the government give written consent to the dismissal and their reasons for consenting. 31 U.S.C. . § 3730(b)(1), Fla. Stat. § 68.083(2), N.C. Gen. Stat. § 1-608(b)(1), Tenn. Code Ann. § 71-5-183(b)(1), and Tex. Hum. Res. Code Ann. § 36.102(e). Therefore, the Intervening Parties request that, should either a relator or any defendant propose that the part of the action in which any Intervening Party has not intervened be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the Intervening Party before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), Fla. Stat. § 68.084(3), N.C. Gen. Stat. § 1-609(f), Tenn. Code Ann. § 71-5-183(c)(3), and Tex. Hum. Res. Code Ann. § 36.104(b), the Intervening Parties request that all pleadings filed in this action, including as to the non-intervened part of this action, be served upon the Intervening Parties; the

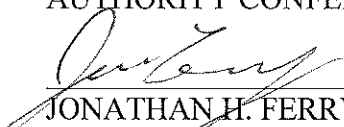
Intervening Parties also request that all orders issued by the Court be sent to the Intervening Parties' counsel. The Intervening Parties reserve their right to order any deposition transcripts and to intervene in the portion of this action in which it is declining to intervene today, for good cause, at a later date.

The Intervening Parties reserves their right to seek the dismissal of the relator's action or claim(s) on any appropriate grounds, including under 31 U.S.C. §§ 3730(b)(5) and (e)(4), Fla. Stat. § 68.084(2), N.C. Gen. Stat. § 1-609(b), Tenn. Code Ann. § 71-5-183(c)(2)(A), and Tex. Hum. Res. Code Ann. § 36.102(e).

Respectfully submitted this 31<sup>st</sup> day of August, 2015,

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PRINCIPAL DEPUTY ASSIST. ATTORNEY GENERAL

JILL WESTMORELAND ROSE  
ATTORNEY FOR THE UNITED STATES ACTING UNDER  
AUTHORITY CONFERRED BY 28 U.S.C. § 515



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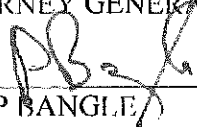
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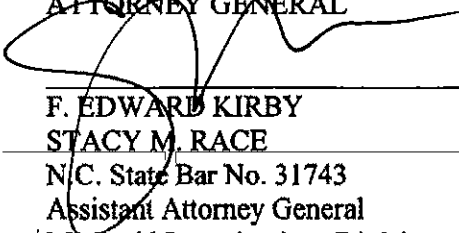
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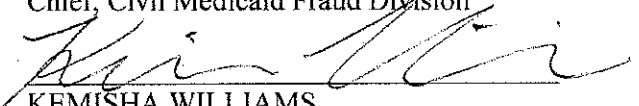
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### **CERTIFICATE OF SERVICE**

I hereby certify that on the 31<sup>st</sup> day of August, 2015, a true and correct copy of the foregoing notice was served upon the party below by mailing a copy thereof, postage prepaid and properly addressed as indicated.

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